



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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MEMORANDUM FOR REGINA FRASIER-DEAN
SECTION CHIEF
W:E:O:PBR

FROM: John J. McGreevy
Assistant to the Branch Chief
CC:PA:APJP:1

SUBJECT: Question Regarding Form 8453-F and Direct Debits

This memorandum is in response to your request for assistance dated June 11, 2002.

Issue: Where a fiduciary is electronically filing tax returns for multiple trusts, and such trusts owe tax and choose to pay their tax through direct debit, whether that fiduciary is required to file a separate Form 8453-F for each trust paying through direct debit.

Conclusion: It is not necessary for a fiduciary to file a separate Form 8453-F for each trust paying tax by direct debit. Our office recommends that you require a fiduciary to file a single Form 8453-F for all of the trusts paying through direct debit that is separate from the Form 8453-F that is filed for trusts who do not have to pay tax, or are paying tax by other means.

Facts: A Form 8453-F is filed to authenticate an electronically filed Form 1041. Because a single fiduciary may represent multiple trust accounts, a fiduciary is allowed to file a single Form 8453-F to authenticate the signatures for up to 5,000 trusts.

For the 2002 filing season, the Form 1041 e-file computer program has been revised to allow a trust to pay its taxes through direct debit. Where a fiduciary is filing electronic returns for multiple trusts and those trusts want to pay their taxes through direct debit, you have asked whether a fiduciary is required to file a separate Form 8453-F for each trust paying tax through direct debit.

Analysis: Our office does not think there is a legal requirement for a fiduciary to file a separate Form 8453-F for each trust that elects to pay its tax through direct debit. So long as the fiduciary has the necessary authorization from the trust to sign the electronic Form 1041 on the trust's behalf, as well as the ability to authorize the IRS to debit funds from an account held by that trust, it is not necessary to require a separate

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Form 8453-F from the fiduciary for each trust which is paying its taxes through direct debit.

According to Section 12 of Publication 1437, all returns with a balance owed are required to be transmitted separately from returns with no balance owed. "Procedures for Electronic and Magnetic Media Filing of U.S. Income Tax Return for Estates and Trusts, Form 1041, For Tax Year 2001", Publication 1437 (Rev. 12/01), page 32. For the ease of administration, our office recommends that you require fiduciaries who file Forms 1041 for multiple trusts who wish to pay its tax through direct debit, to file a single Form 8453-F for all such trusts that is separate from the other Forms 8453-F being filed for trusts that either owe no tax, or are paying its tax through other means.

Further, you have stated that if a single Form 8453-F is filed for multiple trusts that are paying by direct debit, then you assume the multiple signature listing will indicate which accounts are paying through direct debit, and must list the amount due, and the amount to be paid by direct debit. As stated above, our office recommends that you require fiduciaries to file a single Form 8453-F for the trusts paying by direct debit that is separate from the Forms 8453-F that lists the trusts that either owe no tax, or are paying the tax through other means. A separate Form 8453-F will eliminate the need to indicate each direct debit account on the multiple signature listing. In addition, our office agrees that the multiple listing for the trusts paying tax by direct debit should include the amount due by each trust as well as the amount to be debited from each trust's account.

If you have any questions, please contact Michael Skeen at (202) 622-4910.